

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MICHAEL HORGAN; TIM ALLEN; MICHAEL GARDINER;
TERRI McGILL
Serial No.: 08/908,994
Filed: 08/08/1997
Title: METHOD AND APPARATUS FOR SECURE COMMUNICATIONS
Group:
Examiner:
Docket No.: 36212.00006 (SYN5397.01A)

**Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202**

**DECLARATION OF MICHAEL J. HORGAN IN SUPPORT OF RENEWED PETITION
TO ACCEPT DECLARATION FROM JOINT INVENTORS SIGNING ON BEHALF OF
AN INVENTOR WHO CANNOT BE REACHED
37 CFR 1.47(a)**

Dear Sir:

I, Michael J. Horgan, declare:

1. I am a named inventor of the above-identified U.S. patent application.
2. I am a former business partner of co-inventor Michael Gardiner.
3. I have personal knowledge of the following facts and would be competent to testify thereto if called as a witness
4. I provided the information regarding Michael Gardiner in Exhibit A to O'BANION & RITCHIE LLP via e-mail, which includes his SSN and documents showing that he was the CEO of ACL Datacom, Inc.
5. To the best of my knowledge, the information contained in Exhibit A is true and correct.
6. The name Michael Gardner on the patent application is incorrect. The correct name is Michael Gardiner.
7. The name of Michael Gardiner's wife is Vilma Gardiner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 12-04



Michael J. Horgan

John O'Banion

From: mikehorgan@msn.com
Sent: Tuesday, November 18, 2003 1:55 PM
To: John O'Banion; Jerry King
Cc: Mary Barber
Subject: Information on Michael Gardiner re Synectic Design, LLC

This is the information which we have been able to collect on Michael Gardiner.

Exhibits 1a and 1b: Wells Fargo Bank signature card indicating Mr. Gardiner's true name, title, business address, SSN, Hong Kong driver's license number, Passport number and home telephone number (Hong Kong, he has since moved).

Exhibit 2: Statement by Domestic Stock Corporation, State of California, indicating Mr. Gardiner's true name and his last business address in the United States.

Exhibits 3a, 3b and 3c: Articles of Incorporation for the State of California for ACL Datacom indicating Mr. Gardiner's true name and his last business address in the United States.

Exhibit 4: Statement by Domestic Stock Corporation, State of California, indicating Mr. Gardiner's true name and his last business addresses in the United States and Hong Kong.

Gardiner Information: A summary of the above information.

We are in the process of getting pictures of the burned-out shell of the Sunnyvale address and can try to confirm that ACL Electronics no longer occupies the Hong Kong address if that would be helpful. Please let me know what additional information I can provide.

Regards
Mike Horgan

Michael Gardiner
(No middle initial on any document that we have)

Last Hong Kong Business Address:
6/F Hale Weal Ind. Bldg.
22-28 Tai Chung Rd.
Tsuen Wan, New Territories, HK

Last United States Address:
(Building burned to the ground)
537 Weddell Drive
Sunnyvale, CA 94089

SSN: 565-31-9586

Hong Kong Drivers License Number: XG471955(5)

Passport: 700832707

Home Phone Number - Hong Kong (disconnected) 011-852-2638-0950

EXHIBIT A

1. Account Selection

Checking

Basic Business Checking ATM Plan Branch Plan
 Packaged Business Checking ATM Plan Branch Plan
 Business Checking Interest Plan ATM Plan Branch Plan

Active Business Checking
 Attorney/Client Trust Fund
 Other

Savings 6

Business Savings Business CD
 Business Market Rate Account™ Expandable CD
 Other Special Purpose CD

 Combined Balance Waiver

2. Special Features for Your Deposit Account(s)

 Business Express Cards

Enjoy the convenience of 24-hour access to your accounts at over 1,800 Express ATMs throughout California with a Business Full Access or Limited Access Express Card. Receive the first three months on a trial basis without charge.

 Overdraft Protection

available from deposit accounts or lines of credit:

From Deposit Account(s)

To Account(s)

 ONE LOOK® Business Statement

Receive your business account information in one summarized statement to help you better manage your cash flow. Receive the first three months on a trial basis without charge.



Refer to The Folio for specific instructions on how to set up a ONE LOOK Business Statement.

3. Business Information

Business Name: **ACL Datacom, Inc.**Business Location (Street/Suite) **2150 Douglas Blvd, Suite 100** City **Roseville** State **CA** Zip **95661**

Mailing Address (Street/Suite) _____ City _____ State _____ Zip _____

Business Phone **(916) 771-7000** Phone number of primary contact (if different from business number) **()**

Account Ownership

Sole Proprietor Partnership Corporation/Association Nonprofit Corporation/Association Other

Please describe your business, product/service: **Communications**Date Established **01-03-95** Current Owner(s) Since Date _____Number of Employees **15** Annual Sales \$ _____

Business License Number and Date (for Branch use only) _____ Fictitious Name Statement Date (for Branch use only) _____

Required Documentation to Open a Business Account

| Legal Classification: | Documentation: |
|----------------------------|--|
| Sole proprietorship | Current Business License (if business is in an area that does not issue licenses, please supply a Fictitious Name Statement) |
| General partnership | Partnership Agreement Business License |
| Limited partnership | Certificate of Ltd. Partnership Business License |
| Corporation | Corporate Resolution: Articles of Incorporation |
| Association/Organization | Association or Organization Resolution, or Business License, or Association By-Laws |
| Unincorporated non-profits | Must be opened as a Consumer Account |

Complete this section if you are an owner/principal of the business.

Type Of Business:

Owner/Principal:

Sole proprietorship

Sole proprietor

4. Owner/Principal Information

| * Owner/Principal 1 | ■ Owner/Principal 2 |
|---|-------------------------------------|
| Name & Title MICHAEL GARDINER, CHAIRMAN & CEO | Name & Title |
| Home Address (Number/Street/Apt. #) 6/F, HALEWEI IND. BLDG., 22-28 TAICHUNG RD., TSUEN WAN, NEW TERRITORIES, HK | Home Address (Number/Street/Apt. #) |

EXHIBIT A

| | | | | | |
|--|--|--|--|---|-----|
| City | State | Zip | City | State | Zip |
| Percent of Ownership 100 % | Social Security Number 565 -31 -9580 | | Percent of Ownership % | Social Security Number | |
| Driver's License Number & State HONG KONG XG471944 (S) | | | Driver's License Number & State | | |
| Other ID (State ID, Passport or Major Credit Card) PASSPORT 700832707 | | | Other ID (State ID, Passport or Major Credit Card) | | |
| Home Phone Number (011) 1852-2638-0950 | | | Home Phone Number () | | |
| Owner/Principal 2: | | | Owner/Principal 4: | | |
| Name & Title | | | Name & Title | | |
| Home Address (Number/Street/Apt. #) | | | Home Address (Number/Street/Apt. #) | | |
| City | State | Zip | City | State | Zip |
| Percent of Ownership % | Social Security Number | | Percent of Ownership % | Social Security Number | |
| Driver's License Number & State | | | Driver's License Number & State | | |
| Other ID (State ID, Passport or Major Credit Card) | | | Other ID (State ID, Passport or Major Credit Card) | | |
| Home Phone Number () | | | Home Phone Number () | | |
| Branch use only | | | | | |
| Owner/Principal 1: ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record | Owner/Principal 2: ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record | Owner/Principal 3: ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record | Owner/Principal 4: ChexSystems <input type="checkbox"/> Record <input type="checkbox"/> No Record | <input type="checkbox"/> Pass <input type="checkbox"/> No Pass By: | |
| Reference Number provided by Branch Conversion or qualifying existing account number: | | | | | |

| | |
|--------------------------|---|
| General partnership | All partners |
| Limited partnership | General partners Corporate officers with an ownership interest in the business |
| Corporation | Corporate officers with an ownership interest in the business |
| Partnership/organization | Partners/owners |

PLEASE COMPLETE THE REVERSE SIDE

For Branch Use Only
Please be sure to complete the Reference Number/
qualifying existing account number.

Mailing Instructions for Branch:

First complete the reverse side of this card, then determine where to mail.

If this account is a...

Retail Checking or
Market Rate Account

Then send this card to...

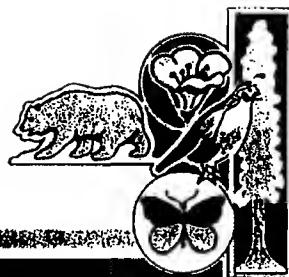
Payment Authorization
North - MAC 0188-041
South - MAC 2001-058

Wholesale Demand
Deposit Account
(account begins with a 4)

Wholesale Accounts
Service Center
MAC 0106-068

EXHIBIT A

1919516



State
of
California
SECRETARY OF STATE'S OFFICE

CORPORATION DIVISION

I, *TONY MILLER*, Acting Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the corporate record on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

JAN 03 1995



Tony Miller

Acting Secretary of State

EXHIBIT A

1919616

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

DEC 3 0 1994

TONY MILLER, Acting Secretary, State

ARTICLES OF INCORPORATION
OF
ACL DataCom Inc.

The undersigned Incorporator, for the purpose of forming a corporation under the General Corporation Law of the State of California, hereby certifies:

FIRST: NAME

The name of this Corporation is ACL DataCom Inc.

SECOND: PURPOSE

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the California Corporations Code.

THIRD: AGENT FOR SERVICE OF PROCESS

The name, and complete address in this state, of the Corporation's initial agent for service of process is: MICHAEL J. MORENO, 537 Weddell Drive, Sunnyvale, California 94089.

FOURTH: STOCK

This Corporation is authorized to issue only one class of shares, which shall be designated "common" shares. The total number of such shares authorized to be issued is ONE HUNDRED THOUSAND (100,000) SHARES.

EXHIBIT A

FIFTH: LIMITATION ON PERSONAL LIABILITY

The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

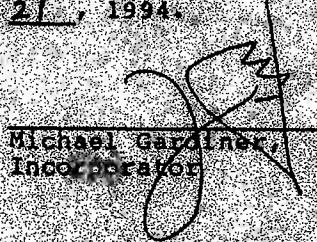
SIXTH: ADDITIONAL RIGHTS OF INDEMNIFICATION

This Corporation is authorized to indemnify its agents to the fullest extent permissible under California law. For purposes of this provision, the term "agent" has the meaning set forth from time to time in Section 317 of the California Corporations Code.

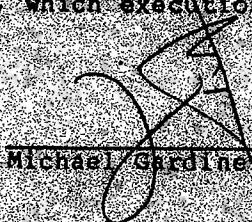
SEVENTH: SHAREHOLDER VOTING RIGHTS

Each common share shall have one vote on all matters on which shareholders are entitled to vote under the California General Corporation Law and/or these Articles.

IN WITNESS WHEREOF, the undersigned has executed these Articles Of Incorporation on December 27, 1994.


Michael Gardiner,
Incorporator

I HEREBY DECLARE that I am the person who executed the foregoing articles Of Incorporation, which execution is my act and deed.


Michael Gardiner



State of California

BILL JONES
Secretary of State

P.O. Box 94420
Sacramento, CA 95824-3309
Phone 916 447-0507

98801094

STATEMENT BY DOMESTIC STOCK CORPORATION

THIS STATEMENT MUST BE FILED WITH CALIFORNIA SECRETARY OF STATE SEC. 1502, CORPORATIONS CODE.

ALL STDS FILING FEES ARE PAYABLE TO THE SECRETARY OF STATE.

WHEN COMPLETING FORM, PLEASE USE BLACK TYPEWRITER FONNOR OR PRINT IN BLACK INK.

IMPORTANT

DO NOT ALTER PREPRINTED NAME. IF ITEM 1 IS BLANK, PLEASE ENTER CORPORATE NAME AND NUMBER.

1. C1919616 DUE DATE 12-31-98

ACL DATACOM, INC.
537 WEDDELL DRIVE
SUNNYVALE, CA 94089

FILED
SACRAMENTO, CALIF.

AUG 31 1998

Bill Jones
BILL JONES
SECRETARY OF STATE

- If There Has Been No Change In Any Of The Information On File, Complete Item 1a Only
Please Indicate on return envelope if no change statement is enclosed.

DO NOT MARK IN THIS SPACE

THE CALIFORNIA CORPORATION HAS SWORN OR DECLARED THAT IT MAKES THE FOLLOWING STATEMENT

1a. I DECLARE THERE HAS BEEN NO CHANGE IN THE INFORMATION CONTAINED IN THE LAST STATEMENT OF THE CORPORATION WHICH IS ON FILE IN THE SECRETARY OF STATE'S OFFICE DOES NOT APPLY ON THIS FORM.

(TYPE OR PRINT NAME OF SIGNING OFFICER OR AGENT)

SIGNATURE

TITLE

DATE

| | | | |
|--|----------|-------------------------------------|-----------------------|
| 2. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE 537 Weddell Drive | ROOM NO. | 3a. CITY AND STATE Sunnyvale, CA | 4a. ZIP CODE 94089 |
| 3. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA (if any) (same as #2 above) | ROOM NO. | 3a. CITY CA | 4a. ZIP CODE |
| 4. MAILING ADDRESS (same as #2 above) | ROOM NO. | 4a. CITY AND STATE CA | 4a. ZIP CODE |

THE NAMES OF THE FOLLOWING OFFICERS, DIRECTORS, AND VACANCIES ON THE BOARD OF DIRECTORS, DO NOT USE P.O. BOX NO. FOR MAILING ADDRESS FOR YOUR CORPORATION

| | | | |
|---|---|--|---------------|
| 5. CHIEF EXECUTIVE OFFICER MICHAEL GARDNER | 5a. STREET ADDRESS (DO NOT USE P.O. BOX) 22-28 Tai Chung Rd., 6/F Tsuen Wan, NT, Hong Kong | 5b. CITY AND STATE Tsuen Wan, NT, Hong Kong | 5c. ZIP CODE |
| 6. SECRETARY MICHAEL GARDNER | 6a. STREET ADDRESS (DO NOT USE P.O. BOX) SAME AS ABOVE | 6b. CITY AND STATE | 6c. ZIP CODE |
| 7. CHIEF FINANCIAL OFFICER MICHAEL GARDNER | 7a. STREET ADDRESS (DO NOT USE P.O. BOX) SAME AS ABOVE | 7b. CITY AND STATE | 7c. ZIP CODE |
| 8. NAME Michael Gardiner | 8a. STREET ADDRESS (DO NOT USE P.O. BOX) 22-28 Tai Chung Rd., 6/F, | 8b. CITY AND STATE Tsuen Wan, NT, Hong Kong | 8c. ZIP CODE |
| 9. NAME | 9a. STREET ADDRESS (DO NOT USE P.O. BOX) | 9b. CITY AND STATE | 9c. ZIP CODE |
| 10. NAME | 10a. STREET ADDRESS (DO NOT USE P.O. BOX) | 10b. CITY AND STATE | 10c. ZIP CODE |

ii. THE NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

DESIGNATED AGENT FOR SERVICE OF PROCESS: NAME OF PERSON OR CORPORATION WHO IS TO RECEIVE IT IN CALIFORNIA, OR IF AGENT IS AN INDIVIDUAL, DO NOT INCLUDE ADDRESS. IF AGENT IS A CORPORATION THAT HAS Filed A CERTIFICATE PURSUANT TO SECTION 1505 CORPORATIONS CODE

11. NAME
Michael Gardiner

12. CALIFORNIA STREET ADDRESS IF AGENT IS AN INDIVIDUAL (DO NOT USE PO BOX) Do not include address if agent is a corporation that has filed a certificate pursuant to Section 1505 Corporations Code
537 Weddell Drive, Sunnyvale, CA 94089

DESCRIBE TYPE OF BUSINESS OF THE CORPORATION NAMED IN ITEM 1

13. TYPE OF BUSINESS
Communications Products

14. I DECLARE THAT I HAVE EXAMINED THIS STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE, CORRECT AND COMPLETE.

MICHAEL GARDNER

TYPE OR PRINT NAME OF SIGNING OFFICER OR AGENT

ORIGINAL SIGNATURE

DATE

Chandler 8/37/98

260

EXHIBIT A

Dana Reeder

From: mikehorgan@msn.com
Sent: Tuesday, December 02, 2003 11:50 AM
To: Dana Reeder
Subject: Vilma Gardiner

We are still trying to get Mr. Gardiner's home phone number. Perhaps the "Contact PH. (702) 355-3303" listed below is what we are looking for. You might try it just to see who answers.

We will keep trying until we hear from you.

Thanks
Mike Horgan

[http://www.lasvegasrealtor.com/site/memberSearch.asp?
search=true&305=2092874201966s87f3](http://www.lasvegasrealtor.com/site/memberSearch.asp?search=true&305=2092874201966s87f3)

Vilma Gardiner - gardinervilma@aol.com
RE/MAX Advantage
8548 W Lake Mead Blvd
Las Vegas , NV 89128
Contact PH. (702) 355-3303
Office PH. (702) 228-3200
FAX. (702) 228-3201